

April 4, 2011 - Regular Town Council Meeting

At a Regular Meeting of the Town Council of the Town of Middletown, RI held at the Middletown Town Hall on Monday, April 4, 2011 at 5:30 P.M.

Council President Arthur S. Weber, Jr., Presiding

Vice President Bruce J. Long

Councillor Richard Cambra

Councillor Edward J. Silveira, Jr.

Councillor Christopher T. Semonelli

Councillor Antone C. Viveiros

Councillor Barbara A. VonVillas, Members Present

PLEDGE OF ALLEGIANCE TO THE FLAG

RECONSIDERATION

The Middletown Town Council follows the codification of present-day general parliamentary law as articulated in Robert's Rules of Order Newly Revised 10th edition (2000), together with whatever rules of order the Council has adopted for its own governance. The motion to reconsider is one of the motions that can bring a question again before an assembly, and is designed to bring back for further consideration a motion which has already been voted on:

If, in the same session that a motion has been voted on, but no later than the same day or the next day on which a business meeting is held, new information or a changed situation makes it appear that a different result might reflect the true will of the assembly, a member who voted with the prevailing side can, by moving to Reconsider [RONR (10th ed.), p. 304-321] the vote, propose that the question shall come before the assembly again as if it had not previously been considered. (From Robert's Rules of Order Newly Revised In Brief, Robert, Evans et al., De Capo Press, 2004)

There were no reconsiderations.

EXECUTIVE SESSION

Pursuant to provisions of RIGL, Sections 42-46-2., 42-46-4., and 42-46-5. (a) (2) Collective Bargaining (Police, Fire, Public Works and Town Hall Unions) and (5) lease – (JFK School).

On motion of Councillor Cambra, duly seconded, it was voted unanimously to recess open session at 5:31 P.M. and reconvene in executive session.

On motion of Vice President Long, duly seconded, it was voted unanimously to reconvene in open session at 6:10 P.M.

On motion of Vice President Long, duly seconded, it was voted unanimously to seal the minutes of the executive session pursuant to Section 42-46-7. RIGL.

PUBLIC HEARING – ADVERTISED FOR 6:00 PM

Public Hearing (Advertised)

Proposed amendments to the Middletown Town Charter.

Public hearing was declared open.

Public hearing was declared open.

Elizabeth Bozyan, 535 Indian Avenue, requested the Council to withdraw the proposed amendments to the Charter. Mrs. Bozyan

noted that the process should be open to the public.

Steven Rodrigues, 45 Sachuest Way, noted his concern that the proposed amendments are based on the economy and being rushed to quick. Mr. Rodrigues suggested a charter review board.

Kellie DiPalma, 18 Pocahontas Drive, member of the Middletown School Committee, addressed the Council requests the Council not to go forward with the proposed charter amendments.

Teresa Silveira Spengler, 1111 Wapping Road, Vice Chair Middletown School Committee noted that the charter should maintain separation of powers and requests the Council not to proceed with charter changes.

Richard Barker, 25 Willow Avenue, requests School Committee and Council to eliminate at least six personnel on each side. Mr. Barker noted that he feels the charter is being held hostage.

Councillor Semonelli noted his support for the charter changes explaining the need to eliminate the tax burden on the residents.

Councillor Silveira explained that there are areas within the charter which need to be amended. Mr. Silveira requests assistance from the residents to make charter changes.

Council President Weber noted his believe that the Town is going in the proper direction concerning the proposed charter amendments. Mr. Weber explained need to maintain services and balance the tax rate.

Vice President Long noted his support of the proposed charter changes suggesting the proposal be placed on the general election ballot to allow for greater voter participation. Mr. Long explained the need to regionalize services within the Town and School.

Councillor Vivieros explained that the Town is in a financial crisis and he wants to keep the tax rate low. Mr. Vivieros noted that he would never support something that would violate residents' rights.

Councillor Cambra noted the need for structural changes within the Town.

Councillor VonVillas noted her support for the proposed charter changes.

Teresa Silveira Spengler, 1111 Wapping Road, Vice Chair Middletown School Committee explained that the School Department Administration and residents should be part of the process to amend the charter.

Manny Mello, Beacon Terrace North, addressed the Council noting

his support for the proposed charter amendments. Mr. Mello explained that the Council is responsible to set the tax rate.

There being no other persons present desiring to be heard public hearing was declared closed.

On motion of Vice President Long, duly seconded, to place the proposed charter amendments on the November 6, 2012 General Election ballot

On motion of Councillor Cambra, duly seconded, to table the matter

Vice President Long withdrew his motion.

Councillor Cambra withdrew his motion.

On motion of Councillor Cambra, duly seconded, it was voted unanimously to recess this meeting until 7:00 pm.

On motion of Vice President Long, duly seconded, it was voted unanimously to act on item #24, at this time.

Item # 24 - An Ordinance of the Town of Middletown (Second Reading)

An Ordinance in Amendment to the Town Code of the Town of Middletown, Title III, Administration, Chapter 37 Civil Service, Subsections (37.017) Negotiation of Authorized, (37.019) Performance Reviews For Unclassified Employees, (37.026) Physical and Psychological Examinations, (37.027) Placement on Eligible Lists, (37.035) Notice of Rejection; Destruction of Applications, (37.036) Disqualification of Applicants, (37.037) Lateral Recruitment Appointment of Police and Fire, (37.047) Overtime Compensation, (37.061) Processing of Grievance to Department or Division Head, (37.062) Appeal to Town Administrator and Review Board, (37.075) Annual Leave Accrual, (37.078) Accrual of Sick Leave, (37.100)

Separation From Classified Service, (37.103) Contributions to cost of plan and (37.105) Pension Benefits.

Attorney Daniel Kinder noted that the amendments are technical coordinating with structural changes within the Town. All amendments are in compliance with state and federal laws.

On motion of Councillor Silveira, duly seconded, it was voted unanimously to adopt said ordinance on its second reading.

Town Administrator Shawn Brown requested a short recess at 7:06 pm.

At 7:12 pm the meeting resumed.

PUBLIC FORUM SESSION

Pursuant to Rule 23 of the Rules of the Council, Citizens may address the town on one (1) subject only, said subject of substantive Town business, neither discussed during the regular meeting nor related to personnel or job performance. Citizens may speak for no longer than five (5) minutes and must submit a public participation form to the Council Clerk prior to the start of the meeting.

Sarah Gill, 479 Wolcott Avenue, addressed the Council noting support for increasing fines for unleashed dogs at the beach.

AWARDS & PROCLAMATIONS

- 1. Memorandum of Town Administrator, re: Employee Recognition Program - Pins of Service First Quarter 2011.**

Town Administrator Shawn Brown noted that Lt. Bissonette was unable to attend the meeting and recognized him for his

accomplishments.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.

CONSENT

Vice President Long requested that items # 17, 18, 19 and 20 not be adopted under consent and action be taken individually.

2. Approval of Minutes, re: Special Meeting, March 15, 2011.

On motion of Vice President Long, duly seconded, it was voted unanimously to approve said minutes.

3. Approval of Minutes, re: Regular Meeting, March 21, 2011.

On motion of Vice President Long, duly seconded, it was voted unanimously to approve said minutes.

4. Resolution of the Council, re: Proclaiming April 2011 Fair Housing Month in the Town.

On motion of Vice President Long, duly seconded, it was voted unanimously to pass said resolution.

5. Communication of Susan Erstling, Ph.D., LICSW Board Chair, re: Appreciation for support.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said communication.

6. Resolution of the Town of Glocester, re: Requesting support of resolution endorsing an amendment to RIGL 16-7-23 – to prevent a Regional School District from presenting an overall budget that reflects prior year(s) debt service which is no longer occurring, thereby preventing the funding of an expenditure that no longer exists.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said resolution.

7. Resolution of the Town of Jamestown, re: Requesting support of Legislative Initiative of the Rhode Island Board of Elections to amend RIGL 17-11-1 “An Act Relating to Elections – Voting Districts and Officials”.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said resolution.

8. Resolution of the Town of Jamestown, re: Requesting support of Legislation to amend RIGL 17-18-11 “An Act Relating to Elections – Elective Meetings”.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said resolution.

9. Memorandum of Town Administrator, re: Continuance of Docket Items Relating to the Organization of the Fire Department. (Items #10, #11 and #12)

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum and continue docket items #10, #11 and #12 to the Special meeting of the Council on April 11, 2011.

10. An Ordinance of the Town of Middletown (Second Reading)

An Ordinance in Amendment to the Town Code of the Town of Middletown, Title III, Administrator, Chapter 37 Civil Service, Subsection Organization of the Fire Department.

11. (Continued from the Regular Meeting, March 21, 2011)

Memorandum of Town Administrator, re: Revisions to Middletown Fire Department Rules and Regulations.

12. (Continued from the Regular Meeting, March 21, 2011)

Approval of Middletown Fire Department Rules and Regulations.

13. Communication of Sewer Assessor, with enclosures, re: Cancellation of taxes for certain Middletown taxpayers.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said communication.

14. Resolution of the Council, re: Cancellation of taxes for certain Middletown taxpayers.

On motion of Vice President Long, duly seconded, it was voted unanimously to pass said resolution.

15. Applications received from the following named persons, firms or corporations for RENEWAL of Holiday Sales License for the 2011-2012 licensing year. (See Attached List)

On motion of Vice President Long, duly seconded, it was voted unanimously to grant said license renewals.

16. Application for Frank S. Santos dba Sandy's Liquors, 717 Aquidneck Avenue for RENEWAL of Sunday Selling License for the 2011- 2012 licensing year.

On motion of Vice President Long, duly seconded, it was voted unanimously to grant said license renewal.

17. Application of the Aquidneck Island Police Parade Committee, Middletown, for RENEWAL of Peddler's License for (Novelties and T-Shirts) for Police Parade Day, May 1, 2011 includes a request to waive license fee. (6 Vendors; Middletown Only)

On motion of Vice President Long, duly seconded, it was voted unanimously to grant said licenses renewals and waive said license fees.

18. Communication of Corey A. Huck, Chairman, Aquidneck Island

Police Parade Committee, re: Requesting “in-kind” services for police details, highway department personnel, and Town owned properties and to utilize Linden School as a staging area for the Aquidneck Island National Police Parade to be held on Sunday, May 1, 2011.

On motion of Vice President Long, duly seconded, it was voted unanimously to grant in-kind services and sole vendor approval for the Aquidneck Island Police Parade on May 1, 2011 in Middletown.

19. Application for Special Event Permit from the Aquidneck Island National Police Parade Committee for the Aquidneck Island National Police Parade beginning at 317 West Main Road proceeding into Newport (Broadway) to be held on Sunday, May 1, 2010 beginning at 11:50 a.m. (Parade Committee respectfully requests permit fee to be waived)

On motion of Vice President Long, duly seconded, it was voted unanimously to grant said special event permit and waive said permit fee.

20. Application for Special Event Permit from the Middletown FOP Lodge #21 and Aquidneck Island National Police Parade Committee for the Aquidneck Island Five-0 5K at Sachuest Beach to be held on Saturday, April 23, 2011 beginning at 8:00 a.m. until 12:00 p.m. (Attached is a request to waive permit fee)

On motion of Vice President Long, duly seconded, it was voted unanimously to grant said special event permit and waive said permit fee.

PUBLIC HEARING

21. Public Hearing (Advertised)

Town of Middletown application for Small Cities Community Development Block Grant (CDBG) for certain projects, in an amount not to exceed \$400,000.

Public Hearing was declared open.

Town Planner Ronald Wolanski reviewed the memorandum entered here:

Christian Belden, of Church Community Housing Corporation, addressed the Council noting that the Town is eligible for an amount not to exceed \$400,000. Mr. Belden explained that Church Community Housing will be assisting the Town with the CDBG grant application, noting several firms requesting 2011 CDBG funding.

Susan Schenck, Chief Operating Officer representing East Bay Action Program, requested support for three projects, one at the Joel Peckham School, one at Community Health Center and lastly to construct a new Community Health Center.

Jennifer Barrara, Director of Lucy's Hearth, requests support for Lucy's Hearth general operating expenses to provide shelter and service programs.

Public Hearing was declared closed.

ORDINANCES

22. An Ordinance of the Town of Middletown (Second Reading)

An Ordinance in Amendment to the Town Code of the Town of Middletown, Title IX, General Regulations, Chapter 90 Animals, Subsection 90.01 Hunting Redistricted, Permit Required.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said ordinance.

Chief Pesare addressed the Council noting that the amendment to the ordinance is an initiative to co-exist with coyotes.

Deb Gedney, 559 Turner Road, addressed the Council in support of the proposed amendment. Mrs. Gedney noted that the coyotes are dangerous and she is concerned for children and the elderly.

Stacia Petri, 57 Stiness Drive, Warwick, noted her concern that a solution for the coyotes should not be to kill them.

Shana Gaines, 85 Warner Street, Newport, presented the Council with a petition in opposition to the ordinance amendment. Ms. Gaines requests the Council to postpone their decision to seek alternatives.

Lissie Leddy, 7 Boughton Road, Newport, addressed the Council noting her disagreement with the amendment explaining you cannot control nature.

Patrizia Filippi, 19 Almy Street, Newport noted the need to learn to co-exist with coyotes.

Steve Fagan, 5 Toni Lynn Terrace, noted his support for the proposed amendment explaining that it would be negligent to ignore the Chief's request. Mr. Fagan expressed the need to protect the citizens and educate the public with long term solutions to co-exist with coyotes.

Joan DeMello, 10 Hoover Road, addressed the Council noting that she is not in favor of shooting the coyotes and explained the need to educate the public concerning co-existing with coyotes.

Gail Greenwood, 308 Forest Avenue, noted concern with shooting the coyotes and sending a negative message to youths in the community.

Sarah Gill, 479 Wolcott Avenue, noted her support for the proposed

amendment explaining though this is a short term fix and the need for a long term solution.

Audrey Rearick, 296 Tuckerman Avenue, presented a handout to the Council, which is on file in the Office of the Town Clerk. Ms. Rearick requests the Council to delay action and research an Island wide plan for coyote management.

Mary Wiley, 4 Toni Lynn Terrace, noted her support for the police departments request to amend the ordinance. Ms. Wiley expressed concern for the well being and safety of children.

Christine Fagan, 5 Toni Lynn Terrace, noted that she is an advocate for passage of the proposed amendments to deal with the coyote crisis effectively.

Councillor Semonelli noted his agreement with Chief Pesare concerning the need to gain control and work towards long term

solutions.

Councillor Silveira noted that this is a safety issue and completely supports the amendments.

James Peckham, 14 Little Creek Lane, noted his support for the proposed amendments to the ordinance explaining the loss of livestock by coyotes on his property.

James Riley, 17 Gunning Court, explained that he has seen a pack of coyotes out during the day. Mr. Riley expressed the need to thin the pack then there can be co-existence with the coyotes.

Vice President Long reviewed the coyote summit and mentioned the coyote working group which was established after the summit. Mr. Long noted his support for the proposed amendments.

Councillor Viveiros noted the Town is faced with a situation on which a decision must be made explaining the first responsibility is to the citizens of the Town. Mr. Viveiros noted his support for the proposed amendments.

Patrick Murphy, 7 Loring Street, addressed the Council noting he does not support the proposed amendments explaining that the hunting range would be in close proximity to homes.

Town Administrator Shawn Brown noted that the Town Administration has been working on the coyote problem and encourages the Town Council to adopt this amendment to the ordinance.

On motion of Councillor Cambra, duly seconded, it was voted unanimously to adopt said ordinance on its second reading.

23. An Ordinance of the Town of Middletown (Second Reading)

An Ordinance in Amendment to the Town Code of the Town of Middletown, Title VII, Traffic Code, Chapter 74 Parking Schedules, Schedule II No Parking At Any Time.

On motion of Vice President Long, duly seconded, it was voted unanimously to adopt said ordinance on its second reading.

24. An Ordinance of the Town of Middletown (Second Reading)

An Ordinance in Amendment to the Town Code of the Town of Middletown, Title III, Administration, Chapter 37 Civil Service, Subsections (37.017) Negotiation of Authorized, (37.019) Performance Reviews For Unclassified Employees, (37.026) Physical and Psychological Examinations, (37.027) Placement on Eligible Lists, (37.035) Notice of Rejection; Destruction of Applications, (37.036) Disqualification of Applicants, (37.037) Lateral Recruitment Appointment of Police and Fire, (37.047) Overtime Compensation, (37.061) Processing of Grievance to Department or Division Head, (37.062) Appeal to Town Administrator and Review Board, (37.075) Annual Leave Accrual, (37.078) Accrual of Sick Leave, (37.100)

Separation From Classified Service, (37.103) Contributions to cost of plan and (37.105) Pension Benefits.

Action concerning item #24 was taken prior to the public forum.

OTHER COMMUNICATIONS

25. Communication of Middletown Athletic Boosters, re: Requesting support by placing an ad in the Senior Athletic Awards Banquet program.

On motion of Vice President Longi, duly seconded, it was voted unanimously to receive said communication and authorize (\$100.00) One Hundred dollars, for a full page ad in the Senior Athletic Awards Banquet program, to be allocated from the President Discretionary fund.

TOWN ADMINISTRATOR COMMUNICATIONS

26. Receipt of Town of Middletown proposed budgets, Fiscal Year 2011-2012.

On motion of Vice President Long, duly seconded, it was voted unanimously to take receipt of Town of Middletown proposed budgets, FY-2011-2012, which were submitted on April 1, 2011, by the Town Administrator to the Town Clerk on behalf of the Council in accordance with Section 304 of the Middletown Town Charter.

27. Overview of FY 2011-2012 Proposed Department Budgets – General Fund, Parks and Recreation Fund, Sewer Fund and Refuse and Recycling Fund.

On motion of Vice President Long, duly seconded, it was voted unanimously to the initiate overview of FY 2011-2012 Proposed Department Budgets– General Fund, Parks and Recreation Fund, Sewer Fund and Refuse and Recycling Fund.

Town Administrator Shawn Brown reviewed the Town Administrators Budget message (FY 2012) entered here:

APPOINTMENTS TO BOARDS AND COMMITTEES

28. Appointment of one (1) member to the Senior Center Board of Directors for a term expiring January 2014.

On motion of Vice President Long, duly seconded, it was voted unanimously to appoint Joyce Quinn to the Senior Center Board of Directors for a term expiring January 2014.

29. Appointment of one (1) member to the Open Space and Fields Committee to complete a term expiring November 2012.

On motion of Vice President Long, duly seconded, it was voted unanimously to appoint Edward Sisk to the Open Space and Fields Committee to complete a term expiring November 2012.

30. Appointment of three (3) members to the Zoning Board of Review, one regular member, term expiring April 2016 and two alternate members terms expiring April 2012.

On motion of Vice President Long, duly seconded, it was voted to request the Town Clerk to schedule interview for all applicants to the Zoning Board of review and advertise for additional applicants;

Councillors Cambra and VonVillas voted NO to said motion.

31. Appointment of eight (8) members to the Committee for the Arts, terms to be determined.

On motion of Vice President Long, duly seconded, it was voted unanimously to appoint the following members to the Committee for the Arts with the following terms:

Diane Andrews, term expires 4/1/2013

Diana Campagna Skaggs, term expires 4/1/2014

Amy Lynn Cordeiro, term expires 4/1/2014

Lisa Hansel, term expires 4/1/2013

Nancy D. McAuliffe, term expires 4/1/2013

Linda Phelan, term expires 4/1/2014

Susan Woythaler, term expires 4/1/2012

Roderick O'Hanley, term expires 4/1/2012; all terms hereafter will be three year terms.

On motion of Councillor Silveira, duly seconded, it was voted unanimously to adjourn said meeting at 10:51 P.M.

Wendy J.W. Marshall, CMC

Council Clerk

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